

106TH CONGRESS  
1ST SESSION

# S. 1863

To amend the Internal Revenue Code of 1986 to provide an incentive to small businesses to establish and maintain qualified pension plans by allowing a credit against income taxes for contributions to, and start-up costs of, the plan.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 1999

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide an incentive to small businesses to establish and maintain qualified pension plans by allowing a credit against income taxes for contributions to, and start-up costs of, the plan.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Employer Pen-  
5 sion Start-up Incentive Act”.

1 **SEC. 2. CREDIT FOR SMALL EMPLOYER PENSION PLAN**  
 2 **CONTRIBUTIONS AND START-UP COSTS.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-  
 4 chapter A of chapter 1 of the Internal Revenue Code of  
 5 1986 (relating to business related credits) is amended by  
 6 adding at the end the following new section:

7 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN CREDIT.**

8 “(a) GENERAL RULE.—For purposes of section 38,  
 9 in the case of an eligible employer, the small employer pen-  
 10 sion plan credit determined under this section for any tax-  
 11 able year is an amount equal to the sum of—

12 “(1) 50 percent of the qualified employer con-  
 13 tributions of the taxpayer for the taxable year, and

14 “(2) the qualified start-up costs paid or in-  
 15 curred by the taxpayer during the taxable year.

16 “(b) LIMITATIONS.—

17 “(1) LIMITS ON CONTRIBUTIONS.—For pur-  
 18 poses of subsection (a)(1)—

19 “(A) qualified employer contributions may  
 20 only be taken into account for each of the first  
 21 5 taxable years ending after the date the em-  
 22 ployer establishes the qualified employer plan to  
 23 which the contribution is made, and

24 “(B) the amount of the qualified employer  
 25 contributions taken into account with respect to  
 26 any qualified employee for any such taxable

1           year shall not exceed 3 percent of the com-  
 2           pensation (as defined in section 414(s)) of the  
 3           qualified employee for such taxable year.

4           “(2) LIMITS ON START-UP COSTS.—The amount  
 5           of the credit determined under subsection (a)(2) for  
 6           any taxable year shall not exceed—

7                   “(A) \$500 for each of the first, second,  
 8                   and third taxable years ending after the date  
 9                   the employer established the qualified employer  
 10                  plan to which such costs relate, and

11                   “(B) zero for each taxable year thereafter.

12           “(c) DEFINITIONS.—For purposes of this section—

13                   “(1) ELIGIBLE EMPLOYER.—

14                           “(A) IN GENERAL.—The term ‘eligible em-  
 15                           ployer’ means, with respect to any year, an em-  
 16                           ployer which has no more than—

17                                   “(i) for purposes of subsection (a)(1),  
 18                                   50 employees, and

19                                   “(ii) for purposes of subsection (a)(2),  
 20                                   100 employees,

21                   who received at least \$5,000 of compensation  
 22                   from the employer for the preceding year.

23                   “(B) 2-YEAR GRACE PERIOD.—An eligible  
 24                   employer who establishes and maintains a quali-  
 25                   fied employer plan for 1 or more years and who

1 fails to be an eligible employer for any subse-  
2 quent year shall be treated as an eligible em-  
3 ployer for the 2 years following the last year  
4 the employer was an eligible employer.

5 “(C) REQUIREMENT FOR NEW QUALIFIED  
6 EMPLOYER PLANS.—Such term shall not in-  
7 clude an employer if the employer (or any pred-  
8 ecessor employer) established or maintained a  
9 qualified employer plan with respect to which  
10 contributions were made, or benefits were ac-  
11 crued, for service in the 3 taxable years ending  
12 prior to the first taxable year in which the cred-  
13 it under this section is allowed.

14 “(2) QUALIFIED EMPLOYER CONTRIBUTIONS.—

15 “(A) IN GENERAL.—The term ‘qualified  
16 employer contributions’ means, with respect to  
17 any taxable year, any employer contributions  
18 made on behalf of a qualified employee to a  
19 qualified employer plan for a plan year ending  
20 with or within the taxable year.

21 “(B) EMPLOYER CONTRIBUTIONS.—The  
22 term ‘employer contributions’ shall not include  
23 any elective deferral (within the meaning of sec-  
24 tion 402(g)(3)).

1           “(3) QUALIFIED EMPLOYEE.—The term ‘quali-  
2       fied employee’ means an individual who—

3           “(A) is eligible to participate in the quali-  
4       fied employer plan to which the employer con-  
5       tributions are made, and

6           “(B) is not a highly compensated employee  
7       (within the meaning of section 414(q)) for the  
8       year for which the contribution is made.

9           “(4) QUALIFIED START-UP COSTS.—The term  
10      ‘qualified start-up costs’ means any ordinary and  
11      necessary expenses of an eligible employer which are  
12      paid or incurred in connection with—

13           “(A) the establishment or maintenance of  
14      a qualified employer plan in which qualified em-  
15      ployees are eligible to participate, and

16           “(B) providing educational information to  
17      employees regarding participation in such plan  
18      and the benefits of establishing an investment  
19      plan.

20           “(5) QUALIFIED EMPLOYER PLAN.—The term  
21      ‘qualified employer plan’ has the meaning given such  
22      term in section 4972(d).

23           “(d) SPECIAL RULES.—

24           “(1) AGGREGATION RULES.—All persons treat-  
25      ed as a single employer under subsection (a) or (b)

1 of section 52, or subsection (n) or (o) of section 414,  
 2 shall be treated as one person. All qualified employer  
 3 plans of an employer shall be treated as 1 qualified  
 4 employer plan.

5 “(2) DISALLOWANCE OF DEDUCTION.—No de-  
 6 duction shall be allowable under this chapter for any  
 7 qualified start-up costs or qualified employer con-  
 8 tributions for which a credit is determined under  
 9 subsection (a).

10 “(3) ELECTION NOT TO CLAIM CREDIT.—This  
 11 section shall not apply to a taxpayer for any taxable  
 12 year if such taxpayer elects to have this section not  
 13 apply for such taxable year.”.

14 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
 15 NESS CREDIT.—Section 38(b) of the Internal Revenue  
 16 Code of 1986 (defining current year business credit) is  
 17 amended by striking “plus” at the end of paragraph (11),  
 18 by striking the period at the end of paragraph (12) and  
 19 inserting “, plus”, and by adding at the end the following  
 20 new paragraph:

21 “(13) in the case of an eligible employer (as de-  
 22 fined in section 45D(c)), the small employer pension  
 23 plan credit determined under section 45D(a).”.

24 (c) CONFORMING AMENDMENT.—The table of sec-  
 25 tions for subpart D of part IV of subchapter A of chapter

1 1 of the Internal Revenue Code of 1986 is amended by  
2 adding at the end the following new item:

“Sec. 45D. Small employer pension plan credit.”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to costs paid or incurred or con-  
5 tributions made in connection with qualified employer  
6 plans established after December 31, 1999.

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